

CITY OF PIPESTONE

POLICY ON CONFLICTS OF INTEREST, INCOMPATIBLE OFFICES, AND GIFTS

1. POLICY STATEMENT

The City Council of the City of Pipestone expects all elected and appointed officials of the City to maintain the highest standards of ethical conduct in order to ensure the public's confidence and respect. City officials hold positions of public trust under the scrutiny of public opinion and their actions must be above suspicion. The public deserves elected and appointed officials who maintain the highest ethical principles and avoid misconduct and conflicts of interest, apparent or real. The public has the right to expect that its public officials will conduct themselves in a manner that will preserve public confidence in and respect for the people they serve.

The purpose of this Policy is to establish a code of ethics related to conflicts of interest, gifts, and incompatible offices covering public elected and appointed officials associated with the City of Pipestone. This Policy is intended to supplement but not replace any applicable laws governing conflicts of interest, gifts, or incompatible offices.

2. DEFINITIONS

A. "Conflict of Interest" is present when, in the discharge of official duties, a public official participates in a sale, lease, or contract they are authorized to make in their official capacity in which they have a personal financial interest, with certain exceptions that are set forth by law.

B. "Gifts" are defined as the transfer of money, property, favor, services, loans, travel, entertainment, hospitality, or things having any value or promise of future economic benefit. Loans which are not intended to influence official action and are made in the ordinary course of business at usual and customary terms that include the charging of interest, a repayment schedule, and security, shall not be considered gifts for the purpose of this Policy. Similarly, transactions made in the ordinary course of business in exchange for reasonable and fair payment shall not be considered gifts for the purpose of this Policy.

C. "Immediate Family Member" includes the public official's spouse or domestic partner, parents, children, siblings, father and mother in-law, son and daughter in-law, sister and brother in-law, step-children, step siblings, and half-brother and half-sister.

D. "Personal Financial Interest" is present if a public official has a financial interest, directly or indirectly, through business, investment, or family:

- i. An ownership or investment interest in any entity with which the City has a transaction or arrangement,
- ii. A compensation arrangement with the City or with any entity or individual

with which the City has a transaction or arrangement, or

iii. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the City is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

E. "Public Official" includes all members of the City Council and all appointed members of the City's boards, commissions, and committees.

3. EXPECTED CONDUCT

Public officials must put the public interest ahead of their own personal advancement and financial interests, disclose conflicts of interest, and refrain from participating in decisions where a financial interest exists. Public officials must generally avoid actions that might impair independence of judgment or give the appearance of impropriety or a conflict of interest, even if a true conflict of interest under the law does not exist. Public officials must not use their position to gain privileges or special treatment. Public officials must avoid any situation that might give rise to or even suggest the potential for a conflict of interest.

4. CONFLICT OF INTEREST IN CONTRACTS

Generally, public "officers" may not have a personal financial interest in a sale, lease, or contract they are authorized to make in their official capacity, unless otherwise excepted by law. Minnesota Statutes, section 471.87. All kinds of contracts for goods and services are included (including formal and informal, written and unwritten) and the prohibition applies not only when the City is the buyer but also when the City is the seller.

Exceptions to this prohibition are primarily set forth in Minnesota Statutes, section 471.88 and include, but are not limited to:

A. Designations of banks or savings association that a City officer has an interest in as an authorized depository for public funds and as a source of borrowing (Minnesota Statutes, section 471.88, subd. 2);

B. Designation of an official newspaper (or publish official notices in) a newspaper in which a City officer has an interest (applies only if the interested officer's newspaper is the only qualified newspaper available) (Minnesota Statutes, sections 471.88, subd. 3 and 331A.04);

C. A contract with a cooperative association of which the City officer is a shareholder or stockholder (applies only if the City officer is not an officer or manager of the association) (Minnesota Statutes, section 471.88, subd. 4);

D. Contracts where competitive bidding is not required (such as contracts for

professional services) (Minnesota Statutes, sections 471.88, subd. 5 and 471.89);

E. Renting of space in a public facility to a public officer at a rate equal to that paid by a other members of the public (Minnesota Statutes, section 471.88, subd. 13);

F. Franchise agreements or contracts for utility services to the City where a council member is an employee of the utility (Minnesota Statutes, section 471.88, subd. 15);

G. Accepting state or federal grants which may benefit a public officer (Minnesota Statutes, section 471.88, subd. 17); and

H. Certain exceptions that are applicable to EDA of HRA members.

Most of the exceptions require that a certain procedure be followed and have additional requirements or conditions. Therefore, it is imperative that the public official inform the City Administrator of the potential conflict of interest even if they firmly believe that an exception applies.

5. CONFLICTS OF INTEREST IN OTHER MATTERS

Any public official who has a disqualifying personal interest in an official non-contractual matter is disqualified from participating in the action. Examples of official non-contractual matters where a public official would have a disqualifying interest include a determination of a council member's residency, appointments to non-elective positions, and land use applications affecting the public official's property. The following factors will be examined in order to determine whether or not the official has a disqualifying interest:

- A. The nature of the decision;
- B. The nature of the financial decision;
- C. The number of interested officials;
- D. The need for interested officials to make the decision; and
- E. Other means available – opportunity for review.

Public officials are generally prohibited from purchasing City-owned property from the City. Minnesota Statutes, section 15.054. This does not apply to the sale of items acquired or produced for sale to the general public in the ordinary course of business.

6. DUTY OF DISCLOSURE OF CONFLICTS OR POTENTIAL CONFLICTS

In connection with any actual or possible conflict of interest, a public official must disclose the existence of the conflict and be given the opportunity to disclose all material facts to the City Council or City board, commission or committee considering the proposed transaction or

arrangement.

7. DETERMINING WHETHER A CONFLICT OF INTEREST EXISTS

After disclosure of the conflict of interest and all material facts, and after any discussion with the public official, they shall leave the City Council, City board, commission or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining City Council, board, commission or committee members shall decide if a conflict of interest exists.

8. PROCEDURES FOR ADDRESSING THE CONFLICT OF INTEREST

A. A public official may make a presentation at the City Council, City board, commission or committee meeting, but after the presentation, they shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

B. The Mayor or the chairperson of the City board, commission or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

C. After exercising due diligence, the City Council, City board, commission or committee shall determine whether the City can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

D. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the City Council, City board, commission or committee shall determine by a majority vote of the disinterested members whether the transaction or arrangement is in the City's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

9. EMPLOYMENT/APPOINTMENT OF FAMILY MEMBERS/INCOMPTABILE OFFICES

No public official shall vote on the approval of the hiring of their immediate family member for any type of City employment including, but not limited to, full-time employment, part-time employment, contractual employment, or appointment to any board or commission. The Mayor may recommend the appointment of their immediate family member and may participate in the discussion, but they must excuse themselves from voting on the matter. Furthermore, public officials must abstain from participating in discussions, deliberations, and voting on a City contract in which the public official's immediate family member has a personal or financial interest.

Pursuant to the City Charter, no member of the City Council shall hold any other paid appointive City office or paid employment with the City. No former member of the City Council may hold

any paid appointive City office or paid employment for which the office or employment was created or the compensation of which were increased during the member's term as a council member.

10. GIFTS

No public official shall accept or solicit a gift from an interested person. An "interested person" is a person or representative of a person or association that has a direct financial interest in a decision that a public official is authorized to make. This includes anyone who may provide goods or services to the City such as engineers, attorneys, financial advisors, contractors, and salespersons. It also includes residents and persons doing business in the City if they have a direct financial interest in a decision that the public official is authorized to make (such as a special assessment or a land use decision).

However, the following types of gifts are permitted:

- A. Lawful campaign contributions;
- B. Services to assist an official in the performance of their official duties (such as providing advice, consultation, information, and communication in connection with legislation and services to constituents);
- C. Services of insignificant monetary value;
- D. A plaque or similar memento (when given in recognition of individual services in a field of specialty or to a charitable cause) with a resale value of \$5.00 or less;
- E. A trinket or memento costing \$5.00 or less;
- F. Informational material with a resale value of \$5.00 or less;
- G. Food or beverage given at a reception, meal or meeting. This exception applies if the recipient is making a speech or answering questions as part of a program that is located away from the recipient's place of work. This exception also applies if the recipient is a member or employee of the legislature and an invitation to attend was given to all members of the legislature at least five days before the date of the event;
- H. Gifts received because of membership in a group. This exception does not apply if the majority of group members are officials. In addition, an equivalent gift must also be offered to the other members of the group; and
- I. Gifts between family members (the gift may not be given on behalf of someone who is not a member of the family).

11. VIOLATIONS OF THE POLICY

A. If the City Council, City board, commission or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

B. If after hearing the member's response and after making further investigation as warranted by the circumstances, the City Council, City board, commission or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

12. RECORDS OF PROCEEDINGS

The minutes of the City Council, City board, commission or committee with board delegated powers shall contain:

A. The names of the persons who disclosed or otherwise were found to have a conflict of interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the City Council, City board, commission or committee's decision as to whether a conflict of interest in fact existed.

B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

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